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PATENT, TRADEMARK AND COPYRIGHT LAW
AND RELATED FEDERAL AND ITC LITIGATION



DOCKET NO: 199721US

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: APPLICATION OF BREIS ET AL.
SERIAL NO. 08/989,507
FILED: DECEMBER 12, 1997
FOR: REMOVABLE ADHESIVE TAPE LAMINATE
AND SEPARABLE FASTNER

SIR:

Attached hereto for filing are the following papers:

**REQUEST FOR EXPEDITED PROSECUTION
37 CFR 1.607 REQUEST FOR AN INTERFERENCE WITH A PATENT
PTO 850 FORM
37 CFR 1.607(a)(4) SUPPLEMENTAL AMENDMENT
AMENDMENT TRANSMITTAL**

Our check in the amount of **\$684.00** is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is attached.

Respectfully submitted,

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INTERFERENCE-INITIAL MEMORANDUM

BOARD OF PATENT APPEALS AND INTERFERENCES: An interference is found to exist between the following cases:
This interference involves Hazes v. Bries et al. Parties

EXAMINERS INSTRUCTIONS - This form need not be typewritten. Complete the items below and forward to the Group Clerk with all file including those benefit of which has been accorded. The parties need not be listed in any specific order. Use a separate form of each count.

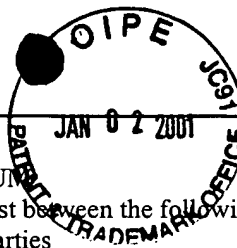
(See MPEP 2309.02)

BOARD OF PATENT APPEALS AND INTERFERENCES: An interference is found to exist between the following cases:

1. PARTY HAZES	APPLICATION NO. 09/098,480	FILING DATE JUNE 16, 1998	PATENT NO., IF ANY 6,086,973	ISSUE DATE, IF ANY JULY 11, 2000
If application has been patented, have maintenance fees been paid? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Maintenance Fees not due yet				
The claims of this party which correspond to this count are: 1-13 The claims of this party which <u>do not</u> correspond to this count are: NONE				
*Accorded the benefit of:				
COUNTRY	APPLICATION NO.	FILING DATE	PATENT NO., IF ANY	ISSUE DATE, IF ANY
NONE				

2. PARTY BRIES ET AL.	APPLICATION NO. 08/989,507	FILING DATE CPA JULY 07, 2000	PATENT NO., IF ANY	ISSUE DATE, IF ANY
If application has been patented, have maintenance fees been paid? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Maintenance Fees not due yet				
The claims of this party which correspond to this count are: 68-81 The claims of this party which <u>do not</u> correspond to this count are: NONE				
*Accorded the benefit of:				
COUNTRY	APPLICATION NO.	FILING DATE	PATENT NO., IF ANY	ISSUE DATE, IF ANY
USA	08/989,507	DECEMBER 12, 1997		

3. PARTY	APPLICATION NO.	FILING DATE	PATENT NO., IF ANY	ISSUE DATE, IF ANY
If application has been patented, have maintenance fees been paid? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Maintenance Fees not due yet				
The claims of this party which correspond to this count are: _____ The claims of this party which <u>do not</u> correspond to this count are: _____				
*Accorded the benefit of:				
COUNTRY	APPLICATION NO.	FILING DATE	PATENT NO., IF ANY	ISSUE DATE, IF ANY



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BOARD OF PATENT APPEALS
AND INTERFERENCES

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Instructions

1. For every patent involved in the interference, check if the maintenance fees have been paid by using the Patent Number with PALM screen 2970. If fees are due and they have not been paid, the Interference cannot be declared since it would involve an expired patent (35 U.S.C. §135(a), 37 C.F.R. §1.606)
2. For each party, identify the patentable (or patented) and unpatentable (pending) claims which correspond to the count (37 C.F.R. §1.60(f), (n); §1.609(b)(2)).
3. For each party, identify the patentable (or patented) and unpatentable (pending) claims which do not correspond to the count of (37 C.F.R. §1.609(b)(3)).
4. Forward all files including those the benefit of which is being accorded.
5. Keep a copy of the Interference Initial Memorandum and any attachments for your records.

All Information Requested Below Must Be Attached On (a) Separate Typewritten Sheet(s).

6. On a separate sheet, set forth a single proposed interference count. If any claim or any party is exactly the same word for word as this count, please indicate the party, application or patent number, and the claim number.
7. For each claim designated as corresponding to the count, provide an explanation of why each claim defines the same patentable invention as the count (37 C.F.R. §1.609(b)(2)).
8. For each claim designated as not corresponding to the count, provide an explanation of why each claim defines a separate patentable invention from the count (37 C.F.R. §1.609(b)(3)).
9. For each additional count, if any, repeat steps 2-6 and, additionally, provide an explanation why each count represents a separate patentable invention from every other count (37 C.F.R. §1.609(b)(1)).

DATE	PRIMARY EXAMINER (signature)	TELEPHONE NO.:	ART UNIT
DATE	GROUP DIRECTOR SIGNATURE (if required)		

* The application number and filing date of each application the benefit of which is intended to be accorded must be listed. It is not sufficient to merely list the earliest.

6. COUNT

Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13 in the Hazes patent

OR

Claims 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, or 81 in the Bries et al. application.

7. Not applicable.

8. Not applicable.

9. Not applicable.

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Docket No. 199721US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

Bries et al.

SERIAL NO: 08/989,507

FILED: December 12, 1997
(CPA filed June 7, 2000)

FOR: REMOVABLE ADHESIVE TAPE
LAMINATE AND SEPARABLE FASTENER

37 CFR 1.607 REQUEST FOR AN
INTERFERENCE WITH A PATENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

I. 37 CFR 1.607(a)(1)

The patent is U.S. patent No. 6,086,973 issued July 11, 2000 and naming Hans Hazes as the inventor. The assignee at issue was Beiersdorf AG, Hamburg, Germany.

II. 37 CFR 1.607(a)(2)

Applicants propose the following count, which is in the format approved by the Commissioner in Orikasa v. Oonishi, 10 USPQ2d 1996, 2003 (Comm'r 1990), and Davis v. Uke, 27 USPQ2d 1180, 1188 (Comm'r 1993):

Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 13 in the Hazes patent

OR

Claims 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, or 81 in the Bries et al. application.



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It should particularly be noted that, pursuant to the Commissioner's opinion in Orikasa, it is appropriate to use a count of this type where the recited claims are in different statutory classes so long as the subject matter recited in the various claims is not patentably distinct.

An extra copy of the proposed count is submitted herewith for the examiner's use in filling out the form PTO-850. In addition, as explained in Section IX of this request, a proposed form PTO-850 is submitted herewith for the examiner's convenience.

III. 37 CFR 1.607(a)(3)

All 13 claims in the Hazes patent correspond to the proposed count. Indeed, the proposed count includes all of the claims in that patent.

IV. 37 CFR 1.607(a)(4)

Claims 68-81 presented in the 37 CFR 1.607(a)(4) amendment submitted herewith correspond to the proposed count. Indeed, the proposed count includes all of the claims in that group of claims.

V. 37 CFR 1.607(a)(5)

Support for the terms of the application claims identified as corresponding to the proposed count and not previously in the application is shown below by reference to the specification and drawings set forth in bold and enclosed in brackets ({ }):

68. An adhesive film strip composite comprising:

- a) an adhesive film strip {**Fig. 4 item 12; Figs. 5-6 item 112 page 8 lines 11-12 and 23-24; page 13 lines 10-12**} which is elastically or plastically extensible {**page 25 lines 14-15**}, exhibits an adhesion less than its cohesion

✓ {Kreckel et al. U.S. Patent No. 5,516,581 at column 1 line 49-54. That patent is incorporated by reference in the present application at page 25 lines 16-20} and the adhesion disappears on extension {page 4 lines 24-30; page 28 line 21-page 29 line 3}, and which exhibits a ratio of peel force to tear strength of at least 1:2 {Kreckel et al. U.S. Patent No. 5,516,581 at column 1 line 49-54. That patent is incorporated by reference in the present application at page 25 lines 16-20}, which when bonded to a substrate, can be released from said substrate by pulling on the adhesive film strip in the direction of the plane of the bond formed between said adhesive film strip and said substrate {page 28 line 27-page 29 line 3}; and

b) a plurality of hook or loop fasteners {Fig. 6 item 138; page 13 lines 17-22} adhered to one side of said adhesive film strip in such a way that said hook or loop fasteners are free to be fastened to mating loop or hook fasteners.

69. The adhesive film strip composite according to claim 68, wherein the adhesive film strip is covered with a cover film {Fig. 3 item 18; page 8 lines 9-11} on a side opposite that to which said plurality of hook or loop fasteners are adhered.

70. The adhesive film strip composite according to claim 68, wherein the adhesive film strip comprises a grip tab {Fig. 3 item 34; Fig. 5 item 134; page 9 lines 17-18; page 13 lines 13-14}.

71. The adhesive film strip composite according to claim 70, wherein the grip tab protrudes beyond the hook or loop fasteners {Fig. 3 item 34; Fig. 5 item 134}.

72. The adhesive film strip composite according to claim 68, wherein the adhesive film strip is elastically or plastically extensible due to the presence of an intermediate support {Fig. 3 item 22; Fig. 5 item 122; page 4 lines 24-30; page 8 lines 12-14; page 25 lines 10-15}.

73. The adhesive film strip composite according to claim 68, wherein said hook or loop fasteners are fastened to a plurality of mating loop or hook fasteners {Fig. 5 items 138 and 140}, which mating loop or hook fasteners are adhered to one side of a second adhesive film strip {Fig. 5 items 126 and 130; page 13 lines 10-13}, which second adhesive film strip is elastically or plastically extensible {page 25 lines 10-15}, exhibits an adhesion less than its cohesion {Kreckel et al. U.S. Patent No. 5,516,581 at column 1 line 49-54. That patent is incorporated by reference in the present application at page 25 lines 16-20} and the adhesion disappears on extension {page 28 line 21-page 29 line 3}, and which exhibits a ratio of peel force to tear strength of at least 1:2 {Kreckel et al. U.S. Patent No. 5,516,581 at column 1 line 49-54. That patent is incorporated by reference in the present application at page 25 lines 16-20}, when bonded to a second substrate, can be released from said second substrate by pulling on the second adhesive film strip in the direction of the plane of the bond formed between said second adhesive film strip and said second substrate {page 28 line 21-page 29 line 3}.

74. The adhesive film strip composite according to claim 73, wherein the adhesive film strip is covered with a cover film on a side opposite that to which said plurality of hook or loop fasteners are adhered {Fig. 3 item 18}, and/or the second adhesive film strip is covered

with a cover film on a side opposite that to which said plurality of mating loop or hook fasteners are adhered **{Fig. 3 item 20}**.

75. The adhesive film strip composite according to claim 73, wherein the adhesive film strip comprises a grip tab **{Fig. 3 item 34}**, and/or the second adhesive film strip comprises a grip tab **{Fig. 3 item 36}**.

76. The adhesive film strip composite according to claim 75, wherein the grip tab of the adhesive film strip protrudes beyond the hook or loop fasteners **{Fig. 3 item 34; Fig. 5 item 134}**, and/or the grip tab of the second adhesive film strip protrudes beyond the mating loop or hook fasteners **{Fig. 3 item 36; Fig. 5 item 136}**.

77. The adhesive film strip composite according to claim 73, wherein the adhesive film strip and/or the second adhesive film strip is elastically or plastically extensible due to the presence of an intermediate support **{Fig. 3 item 22; Fig. 5 item 122; page 4 lines 24-30; page 8 lines 12-14; page 25 lines 10-15}**.

78. In a method comprising bonding an adhesive film strip to a substrate, and optionally thereafter releasing said adhesive strip from said substrate by pulling on the adhesive film strip in the direction of the plane of the bond formed between said adhesive film strip and said substrate, the improvement which comprises employing as said adhesive film strip the adhesive film strip according to any one of claims 68-71, 72, 73-76, and 77.

79. The method according to claim 78, wherein the substrate is non-planar {page 8 lines 25-27}.

80. The method according to claim 79, wherein the non-planar substrate is convex {Kreckel et al. U.S. Patent No. 5,516,581 at Figs. 8 and 10 and column 8 lines 51-65 and column 9 lines 17-39. That patent is incorporated by reference in the present application at page 25 lines 16-20}.

81. The method according to claim 79, wherein the non-planar substrate is irregular {page 8 lines 25-27}.

VI. 37 CFR 1.607(a)(6)

37 CFR 1.607(a)(6) is irrelevant since this request and the accompanying 37 CFR 1.607(a)(4) amendment are being submitted prior to one year from the date on which the Hazes patent was granted.

VII. REQUEST FOR THE BENEFIT OF THE FILING DATE OF APPLICANTS' PRIORITY APPLICATION

Applicants claim priority under 35 USC 120 based upon U.S. application serial No. 08/989,507, which was filed on December 13, 1997. (The present application is a CPA of that application.) Applicants are entitled to the benefit of the filing date of their earlier filed application for interference purposes if the count reads on at least one adequately disclosed embodiment in the earlier application.¹ Assuming that the examiner recommends to the board applicants' proposed count, applicants clearly meet that standard. That this is so is

¹Weil v. Fritz, 572 F.2d 856, 865-66 n.16, 196 USPQ 600, 608 n.16 (CCPA 1978).

demonstrated from the fact that this application is a continuation application from application 08/989,507. Consequently, applicants' earlier filed application has the same disclosure as the instant application, and the application of the terms of the claims to the disclosure in Section V herein is equally applicable to the disclosures of the parent application.

VIII. 37 CFR 1.608

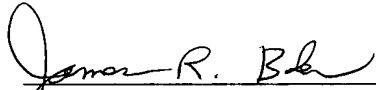
37 CFR 1.608 is irrelevant since the effective filing date of this application precedes the effective filing date of the Hazes patent.

For the foregoing reasons, the party Bries et al. should be the senior party in the requested interference.

IX. SUBMISSION OF PROPOSED FORM PTO-850

Submitted herewith for the convenience of the examiner is a proposed form PTO-850.

Respectfully submitted,



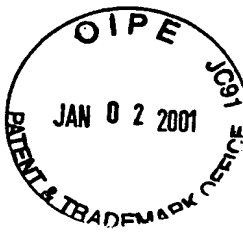
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF :
BREIS ET AL. : GROUP ART UNIT: 1772
SERIAL NO. 08/989,507 : EXAMINER: NASSER AHMAD
FILED: DECEMBER 12, 1997 :
FOR: REMOVABLE ADHESIVE TAPE :
LAMINATE AND SEPARABLE
FASTENER

REQUEST FOR EXPEDITED PROSECUTION

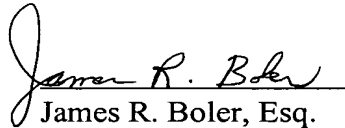
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

The examiner is respectfully reminded that 37 CFR 1.607(b) provides in relevant part
that:

When an applicant seeks an interference with a patent, examination of the
application... shall be conducted with special dispatch within the Patent and
Trademark Office.

Respectfully submitted,


James R. Boler, Esq.

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